

JURISDICTION AND VENUE

2. This Court has original subject matter jurisdiction over the instant action pursuant to 28 U.S.C. §§ 1331 and 1343(a)(4) because it arises under the laws of the United States and seeks redress for violations of federal laws. Any state claims amended herein or included would be proper under this Court's ancillary or supplemental jurisdiction to hear state claims arising out of the same common nucleus of operative facts as those set forth in Plaintiff's federal claims.

3. This Court may properly maintain personal jurisdiction over Defendant because their contacts with this state and this judicial district are sufficient for the exercise of jurisdiction over Defendant to comply with traditional notions of fair play and substantial justice, satisfying the standard set forth by the United States Supreme Court in *International Shoe Co. v. Washington*, 326 U.S. 310 (1945) and its progeny.

4. Pursuant to 28 U.S.C. § 1391(b)(1) and (b)(2), venue is properly laid in this District because actions underlying this case occurred in this District and Defendant is deemed to reside where they are subject to personal jurisdiction, rendering Defendant herein as well.

PARTIES

5. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

6. Plaintiff is an adult female.

7. Defendant is a substance use treatment and recovery center. It is headquartered in Norristown, PA, at the address set forth in the caption.

8. At all times relevant herein, Defendant acted by and through its agents, servants, and employees, each of whom acted at all times relevant herein in the course and scope of their employment with and for Defendant.

9. Plaintiff exhausted her administrative remedies regarding her ADA claims by timely filing a Charge of Discrimination with the Equal Employment Opportunity Commission (“EEOC”) and by filing this Complaint within 90 days of receiving a notice of right-to-sue letter.

FACTUAL BACKGROUND

10. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

11. Plaintiff was hired by Defendant in or about January 2020.

12. Plaintiff worked as a full-time clinical supervisor at Defendant’s West Chester, PA location.

13. Plaintiff was qualified for this position because she held the requisite skills, knowledge and experience for the position.

14. Throughout Plaintiff’s employment, she was supervised by Carmen Davis, Defendant’s Program Director.

15. During her employment, Plaintiff performed her job well, was given positive feedback about her performance and was not issued any discipline.

16. Plaintiff suffers from Post-Traumatic Stress Disorder (“PTSD”), anxiety and other mental health conditions.

17. Plaintiff has suffered with these mental health conditions for many years.

18. Plaintiff’s mental health conditions interfere with and affect her daily functioning, including but not limited to her concentration, focus, thinking, interacting with other people, caring for herself and, at times, working.

19. Plaintiff has obtained medical treatment for these medical conditions, including obtaining treatment from medical professionals and being prescribed medication.

20. Plaintiff informed Defendant's management about her mental health conditions and need for accommodations.

21. Despite Plaintiff's disabilities, she was able to perform all the essential functions of her job, with accommodations.

22. In the months leading up to her termination, Defendant's management began to overload Plaintiff with work, requiring her to perform her Clinical Supervisor duties as well as handling several clinic clients – essentially the work of two full employees all within my 40-hour work week.

23. This additional workload began to exacerbate Plaintiff's aforesaid serious health conditions, causing her severe anxiety, fear, and physical complications.

24. Defendant's management was well aware that Plaintiff was being assigned a counseling caseload that was against the Pennsylvania Department of Drug and Alcohol Program ("DDAP") regulations, but required her to handle same because Defendant was allegedly "short-staffed" and couldn't afford to hire more employees.

25. As a result of Plaintiff's worsening health conditions, on or about November 2, 2020, she informed Ms. Davis and HR that she needed to take the next few days off from work to care for and treat her disabilities.

26. In response to this request, Defendant's management immediately told Plaintiff that she did not have any paid time off left and that she was required to come to work.

27. Defendant failed to engage in any meaningful discussion with Plaintiff about her request for accommodations (i.e. a few days off from work) and instead, treated her rudely because of her request.

28. Plaintiff also specifically requested FMLA leave; however, Plaintiff was informed that she did not qualify for FMLA leave because she had not worked for Defendant long enough.

29. Defendant then informed Plaintiff that it needed documentation from her physician in order to accommodate any medical leave.

30. On or about November 3, 2020, Plaintiff submitted medical documentation (from her medical providers) to Defendant recommending she take a 2-3-month medical leave to care for her health conditions.

31. This accommodation would have enabled Plaintiff to perform the essential functions of her job.

32. Defendant, however, immediately denied Plaintiff's request outright without first engaging in any interactive process with Plaintiff and without providing any legitimate reason as to why.

33. Instead, Defendant informed Plaintiff that unless she got her physicians to retract all the medical comments and recommendations, she would be terminated, because she was not eligible for FMLA leave.

34. Plaintiff then requested the ability to take short-term disability ("STD").

35. Immediately thereafter, Plaintiff's work email access was immediately shut down, and she was not provided with any information about STD.

36. Instead of meaningfully engaging in the interactive process with Plaintiff, as required by the ADA – including allowing her to take a short medical leave, adjusted hours, or even just following the DDAP guidelines with regard to the amount of clients Plaintiff was required to see, Defendant terminated Plaintiff's employment on or about November 11, 2020.

37. Based on the foregoing, Plaintiff asserts that she was discriminated and retaliated against because of her actual and/or perceived disabilities and her request for accommodations. Defendant also failed to accommodate Plaintiff or engage in the interactive process with her to determine if she could be accommodated.

Count I
Violations of Americans with Disabilities Act, as amended (“ADA”)
(Actual/Perceived Disability Discrimination; Retaliation; Failure to Accommodate)

38. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

39. Plaintiff suffers from qualifying disabilities.

40. Plaintiff was qualified to perform the essential functions of her job, with reasonable accommodations.

41. Plaintiff requested accommodations, including a brief medical leave.

42. Plaintiff was subjected to negative treatment because of her medical conditions and requested accommodations.

43. Defendant failed to accommodate Plaintiff and failed to engage in any interactive process with her to determine if she could be accommodated.

44. These actions constitute violations of the ADA, as amended.

WHEREFORE, Plaintiff prays that this Court enter an Order providing that:

A. Defendants are to compensate Plaintiff, reimburse Plaintiff, and make Plaintiff whole for any and all pay and benefits Plaintiff would have received had it not been for Defendants’ illegal actions, including but not limited to back pay, front pay, salary, pay increases, bonuses, insurance, benefits, training, promotions, reinstatement, and seniority.

B. Plaintiff is to be awarded punitive damages, as permitted by applicable law, in an amount believed by the Court or trier of fact to be appropriate to punish Defendants for their willful, deliberate, malicious and outrageous conduct and to deter Defendants or other employers from engaging in such misconduct in the future;

C. Plaintiff is to be accorded other equitable and legal relief as the Court deems just, proper, and appropriate (including but not limited to damages for emotional distress / pain and suffering);

D. Plaintiff is to be awarded the costs and expenses of this action and reasonable attorney's fees as provided by applicable federal and state law.

E. Plaintiff is to receive a trial by jury as requested in the caption of this Complaint.

Respectfully submitted,

KARPF, KARPF & CERUTTI, P.C.

By: _____



Ari R. Karpf, Esq.
Jeremy M. Cerutti, Esq.
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Two Greenwood Square
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Bensalem, PA 19020
(215) 639-0801

Dated: March 29, 2021

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

Elizabeth Swift

v.

Guadenzia, Inc.

CIVIL ACTION

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

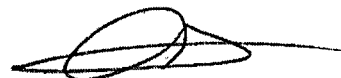
SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

3/30/2021

Date

(215) 639-0801

Telephone

Attorney-at-law

(215) 639-4970

FAX Number

Plaintiff

Attorney for

akarpf@karpf-law.com

E-Mail Address

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 702 Harrowgate Lane, New Hope, PA 18938

Address of Defendant: 106 West Main Street, Norristown, PA 19401

Place of Accident, Incident or Transaction: Defendant's place of business

RELATED CASE, IF ANY:

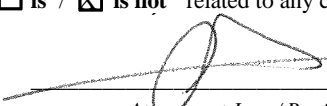
Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- | | | |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 3/30/2021


Attorney-at-Law / Pro Se Plaintiff

ARK2484 / 91538

Attorney I.D. # (if applicable)

CIVIL: (Place a √ in one category only)

A. Federal Question Cases:

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts
 - ☐ 2. FELA
 - ☐ 3. Jones Act-Personal Injury
 - ☐ 4. Antitrust
 - ☐ 5. Patent
 - ☐ 6. Labor-Management Relations
 - ☒ 7. Civil Rights
 - ☐ 8. Habeas Corpus
 - ☐ 9. Securities Act(s) Cases
 - ☐ 10. Social Security Review Cases
 - ☐ 11. All other Federal Question Cases
- (Please specify): _____

B. Diversity Jurisdiction Cases:

- ☐ 1. Insurance Contract and Other Contracts
 - ☐ 2. Airplane Personal Injury
 - ☐ 3. Assault, Defamation
 - ☐ 4. Marine Personal Injury
 - ☐ 5. Motor Vehicle Personal Injury
 - ☐ 6. Other Personal Injury (Please specify): _____
 - ☐ 7. Products Liability
 - ☐ 8. Products Liability – Asbestos
 - ☐ 9. All other Diversity Cases
- (Please specify): _____

ARBITRATION CERTIFICATION

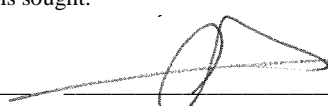
(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Ari R. Karpf, counsel of record or pro se plaintiff, do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

☐ Relief other than monetary damages is sought.

DATE: 3/30/2021


Attorney-at-Law / Pro Se Plaintiff

ARK2484 / 91538

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

